REGISTERED No. M. 7463.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. VII] Trivandrum, Saturday, 7th April 1962 / 17th Chaitra 1884 [No. 34

Legislature Secretariat

NOTIFICATION

No. 1862|LA7|62. *Dated, Trivandrum, 7th April 1962.*

The following Bill together with the Statement of Objects and Reasons, is published, as ordered by the Speaker under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly

D. TIRUMALAI IYENGAR,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1962.

L. A. Bill No. 15 of 1962.

THE GENERAL SALES TAX (THIRD AMENDMENT AND VALIDATION) BILL, 1962

A

BILL

further to amend the General Sales Tax Act, 1125, and to provide for certain other connected matters.

Preamble.—WHEREAS it is expedient further to amend the General Sales Tax Act, 1125, for the purpose hereinafter appearing and to provide for certain other connected matters;

BE it enacted in the Thirteenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the General Sales Tax (Third Amendment and Validation) Act, 1962.

(2) This section and section 3 shall come into force at once and section 2 shall be deemed to have come into force on the 30th day of May, 1950.

2. *Amendment of section 11.*—In section 11 of the General Sales Tax Act, 1125 (Act XI of 1125),—

(i) in sub-section (1), the proviso shall be omitted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Every person who has collected or collects any amount purporting to be by way of tax under this Act on or after the 30th day of May, 1950, whether or not any tax is due from him under this Act in respect of the transaction in which he has collected or collects such amount, shall pay over to the Government within such time and in such manner as may be prescribed, all amounts so collected by him, if they are in excess of the tax, if any, paid by him for the period during which the collections were made; and, in default of such payment, the amounts may be recovered as if they were arrears of land revenue".

3. *Validation.*—Notwithstanding anything contained in any judgment, decree or order of any court,—

(a) all amounts falling within the purview of sub-section (2) of section 11 of the General Sales Tax Act, 1125, as amended by this Act, and paid by, or collected or recovered from, a dealer on or after the 30th day of May, 1950, shall, for all purposes, be deemed to be, and to have always been, validly paid, collected or recovered; and

(b) all proceedings taken, orders passed and acts done by any officer or authority for the collection or recovery of any amount under sub-section (2) of section 11 shall, for all purposes, be deemed to be, and to have always been, taken, passed and done in accordance with law, and all such proceedings, orders and acts may be continued as if taken, passed and done under the General Sales Tax Act, 1125, as amended by this Act:

Provided that nothing in this Act shall render any person liable to be convicted of an offence in respect of anything done or omitted to be done by him before the date of publication of this Act in the Gazette, if such act or omission was not an offence under the General Sales Tax Act, 1125, before the aforesaid date, but for the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Under sub-section (2) of section 11 of the General Sales Tax Act, 1125, every person who has collected or collects any amount by way of tax under that Act on or after the date prescribed under the proviso to sub-section (1) of that section shall pay over to the Government all amounts so collected by him if they are in excess of the tax, if any, paid by him for the period during which collections were made. The High Court of Kerala has, in a Full Bench decision in O.P. Nos. 866|58, 774|59 and 1230|59 held that the mere fact that any collection may have been made by a dealer will not cast any legal obligation on him to pay it over to the State under sub-section (2) of section 11 of the Act, unless what has been collected by him is a tax leviable under the statute. The Court has also held that the Department had no jurisdiction to take any action against dealers under sub-section (2), since the date to be prescribed under sub-section (1) has not been prescribed so far.

Apart from the difficulty that no date had been prescribed as contemplated by the proviso to sub-section (1) of section 11, the Court appears to have taken the view that sub-section (2) can apply only to non-registered dealers. There was no intention to exclude registered dealers from the scope of sub-section (2). The major part of the amount collected was from registered dealers. Hence, it has become necessary to amend section 11 with retrospective effect so that it may apply to all amounts collected by way of tax and also to validate the action already taken under that section.

The BILL is intended to achieve the above purposes.

R. SANKAR.

REGISTERED No. M. 7463.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. VII] Trivandrum, Saturday, 7th April 1962 / 17th Chaitra 1884 [No. 83

GOVERNMENT OF KERALA

Revenue (N) Department

NOTIFICATION

No. 20003/N/62. *Dated, Trivandrum, 6th April 1962.*

In exercise of the powers conferred by Section 15 of the Kerala Agrarian Relations Act, 1960 (Act 4 of 1961), the Government of Kerala hereby make the following amendment to the Revenue Department Notification, constituting Land Tribunals for purposes of the Act, issued under G.O. (P) No. 151 dated 15th February, 1961, published in the Gazette Extraordinary dated 15th February, 1961, as subsequently amended, namely:—

AMENDMENT

1. In the Schedule to the said notification—

for the entry in column (1) relating to the Tribunal with headquarters at Adoor, the following entry shall be substituted, namely:—

"Shri K. P. Krishnankutty Menon (Deputy Collector)".

2. The amendment shall come into force with effect from 11-4-1962.

By order of the Governor,
C. K. KERALA VARMA,
Secretary.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1962.